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Remarks -- General

In response to the Advisory Action of June 5, 2008, Applicant has requested continued examination to place the claims in proper condition for allowance.

Examiner has not said why the GAU has been changed from 1761 to 1794.

Specification:

Applicant has amended the specification to make sure the reader knows that a "composite support" such as "composite support 62," [0044] composite support 62A [0045] or composite support 68 [0048], as recited in the specification and original claims 6, 19, are "composite material" supports.

Drawings:

Applicant has requested to amend drawing sheet 14/16, Fig. 27E to show a fun ingredient 100, such as Nestle Bites, embedded in a support, such as support 62.

Basis for claims Under § 112:

This is not an exhaustive list of the basis for the claims, but an evidentiary list.

I claim:

349. 368 A support for a frozen comestible comprising a material comprising two edible ingredient materials.

Applicant's support, as recited in the specification, comprises a material comprising two edible ingredient materials, such as a hollow length of licorice, which is filled with colored or flavored sugar. The two ingredient materials are not bound together in the interface of the composite, as defined by "a composite," or "a composite material, (See Turwien - IDS) and is therefore a material comprising two ingredient materials." This is the material that an embodiment of

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Applicant's support is made. [0217] [0397]

"A composite (or composite material) is defined as a material that consists of at least two constituents (distinct phases or combinations of phases) which are bonded together along the interface in the composite, each of which originates from a separate ingredient material which pre-exists the composite." (Definition: Tuwien IDS sent 1/28/08, 9/10/07):

<http://mmc-assess.tuwien.ac.at/mmc/Article603.html>

[0217] "The hollow middle may be filled with a more fluid-type additional fun ingredient 100, or filled with another flavor of shoestring licorice, or other confection, such as little candy beads."

[0397] A malleable support that has a hollow center, can be filled with another confection. A more fluid or jell-type confection may be placed inside the hollow center or another edible support or comestible for a burst of flavor. A smaller rope of licorice, such as shoelace licorice, may be placed in this hollow elongated center. Tiny candy beads, or flavored and colored sugar, etc., may also be placed in the long, hollow center of a malleable support. The beads, sugar, fluid, etc. is free to move inside the hollow length and is not bound to the hollow length. Even though not bound together, the licorice and sugar or little candy beads is still however, a material comprising two ingredient materials, since it is the material of which the support is made. (Figs. 7, 8, 9, 10) Applicant's malleable material is a material adapted for any shape. "Fig. 10 shows confection 84 that is supported by malleable support 70 which has a horizontal orientation.

[0219] Support 70 is adapted to be any configuration as desired. Additional loops can be added to create an open spherical support (not shown). [0224] Support 70 is made in *any shape* to compliment the design of confection 84. It is a material that can be made in any shape. [0219] "open spherical shape."

[0226] Support 70 is situated horizontally within confection 84. Support 70 is adaptable to take on other shapes if desired."

[0165 - 0168] In addition, Applicant's composite [material] candy bars, such as the examples of Milky Way (tm), Kit Kat (tm), Baby Ruth (tm), Three Muskateers (tm), Twix (tm), Kudos (tm), Keebler (tm), etc., "(made to a suitable size and shape to support the confection) " are all each "a

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material comprising two ingredient materials.” [Figure 15A] (original claims 6, 19,21,22,23) The specific examples of the ingredient materials can be seen in these above noted paragraphs and many other examples of “a material comprising two ingredient materials” may be seen in the specification.

Claim 350. The support for a comestible of claim 349 wherein said comestible comprises a frozen comestible. Abstract, [0156], [0158], (Figures 1-12 plus others) (throughout specification)

351. The support for a frozen comestible of claim 349 wherein one of said two ingredient materials comprises an edible hollow confection length, wherein the other of said two ingredient materials comprises a filling placed in said hollow length, wherein said filling comprises a plurality of candy beads, colored sugar, flavored sugar, an edible confection rope, or a fluid ingredient. [0217] [0397]

352. 361, The support for a frozen comestible of claim 349 wherein said material comprising two ingredient material comprises a bite size fun ingredient placed inside or embedded in said support, said bite size fun ingredient comprises a bite size confection comprising two ingredient materials, wherein each of said two ingredient materials comprise chocolate, fudge, chocolate chips, rainbow chips, a candy, a toy shaped candy, or chewing gum, said bite size fun confection comprises a bite size ingredient in said support.

A bite size confection, such as Nestle Bites (tm) has “several flavors” i.e. several “ingredient materials.” Nestle Bites makes bite size morsels of composite material candy bars, such as Nestle Bites Kit Kat. Nestle Bites Kit Kat is a bite size portion of the composite material candy bar Kit Kat which comprises a plurality of layers of wafers and creme covered in chocolate. All Nestle Bites, as far as Applicant is aware, has at least two ingredient materials. Kit Kat Bites (tm) can be used as an [fun] ingredient [100] in Applicants support. (i.e. “attached or embedded” [0394] or Nestle Bites...100...added to ... a support [0167]) Kit Kat is mentioned as one of Applicant’s composite material cookie [bar] supports in Applicant’s specification [0390] (*composite material cookie bar* original claims 6, 19, 22) Nestle Kit Kat Bites (tm) is a *bite size* ball [taken from] a

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composite material composite material cookie bar. See further reasoning or documentation below: (N.B. the word "flavors" as used, may mean "ingredient materials" in many instances)

[0167] A bite size additional fun ingredient 100, sold under the trademark Nestle Bites also of Nestle Incorporated, which has several flavors, may be added to confection 84 or an edible support for additional enjoyment. (IDS)

[0394] Additional fun ingredients 100 (Nestle Bites [composite material - see IDS]) may be attached or embedded.

Nestle Bites also of Nestle Incorporated, *which has several flavors* in this circumstance, "several flavors" means [several flavors due to several ingredient materials] [0026] Nestle Bites (tm) comprises bite size morsels of composite material candy bars, such a Kit Kat. (IDS image of Nestle Bites Kit Kat and specification of composite material candy bar Kit Kat) [0390]

Other instances where Applicant has used "flavors" to convey different tastes of different ingredient materials:

[0157] An innumerable amount of flavor choices may be combined, now that the support may have flavors of its own and be eaten as well.

[0026] (k) to provide a better tasting comestible by adding numerous flavor combinations of the edible support to the flavors in the comestible;

[0201] twisted flavors or colors of marshmallow,

[0178] Three different flavors or colors of a confection or three different confections are shown, such as a combination of confections containing ice cream, sorbet and yogurt.

[0217] or filled with another flavor of shoestring licorice.

[0171] Additional fun ingredient 100 may be placed inside or outside confection 84 or inside or outside an edible support to be a "treasure find" (not shown) for a child.

One of Applicant's two ingredient materials in a bite size (ingredient) confection comprises

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rainbow chips [0068] and need not be a composite material, since the rainbow chips can lie loosely in a shell of a "toy shaped candy," such as a hollow candy ball. See Fig. 13A.

Applicant has sufficient disclosure for claim 351 under § 112, paragraphs a and b.

353. The support for a frozen comestible of claim 349 wherein said material comprising two edible ingredient materials comprises said support. . [0165] [0166][0167]

Original claims 6, 19, "composite support 62," "composite support 62A," [0166] Another suitable candy bar that contains the ingredients of a whipped chocolate nougat center 90, topped with a thick layer of caramel 88, which is then totally dipped in a thick chocolate coating 86 (FIG. 27D), is one sold under the trademark Milky Way, also by Mars, Incorporated.

See: (Original claims 6, 19-23 - "wherein said support is a composite material having a plurality of ingredients"). The terminology "composite support" throughout the specification describes a composite [material] support reciting at least two ingredient materials as "ingredients of" the support, i.e. nougat, caramel, chocolate, [supports 62, 62A, 64, 68, 72, 86][0166 - 0170] [Figs. 1, 2, in view of Figs. 27A-27E]

Applicant's terminology need not recite "composite material," as "a composite" refers to a material, not to components attached together. See issued patent number 6,815,066 to Elliott, whose issued claims recite only "composite." (See Tuwien: General Definitions, (i), (ii) see IDS) Applicant has properly claimed a composite material by the terminology "a composite support," in the specification as filed (composite support 62, composite support 62A) and in earlier amendments, under § 112. Neither Musher, nor Feybusch comprise a support comprising a material comprising two ingredient materials, a support comprising a "composite," a composite material," or a "composite support," as their supports do not show a material comprising two ingredient materials.

354. The support for a frozen comestible of claim 349 wherein said material comprising two

edible ingredient materials comprises a multi-ingredient confection bar. [0165] [0166][0167]
Original claims 6, 19, 20, 21, “wherein said [composite material] support is a candy bar,” 22, 23
- “wherein said support is a composite material having a plurality of ingredients”) [0165], [0166],
[0167]

Original claims 6, 19, 20, 21, “wherein said [composite material] support is a candy bar,” 22, 23
- “wherein said support is a composite material having a plurality of ingredients”) [0165, 0166,
0167] Various composite material candy bars known to those in the art, i.e. Milky Way (tm)
Snickers (tm), Baby Ruth (tm), Twix (tm), Kit Kat (tm), etc. examples used as a support.
Original claims 19 and 21. Candy bar support 62, Figs. 1,2, 5,6, 15A, 27A-27E.

355. The support for a frozen comestible of claim 349 wherein each of said two ingredient
materials comprise a candy, a mini colored candy chip, a flavored candy chip, a mini size piece
of candy, crushed candy, an individually coated piece of candy, a nut, a candy bead, a fluid
ingredient, an edible coating, an edible moisture resistant barrier, fudge, peanut butter, nougat,
dried yogurt, mint, ginger, graham, a filling, gelatin, or fruit. [0161] [0166] [0364] [0217]
[0397] [0060] [0162] and throughout specification.

356. The support for a frozen comestible of claim 349, further comprising a plurality of
ingredients in said material comprising a candy, mini colored chips, flavored chips, mini size
pieces of candy, crushed candy, mini size pieces of individually coated candy, nuts, candy beads,
a fluid ingredient, chewing gum,... [0161]; [0166]; [0364] [0217][0397],[0060] [0162] [various
candy bars and throughout specification]

357. The support for a frozen comestible of claim 349 wherein said support comprises a handle.
[0161] [0175]

358. The support for a frozen comestible of claim 349, further comprising a supported frozen
comestible. (Figures 1-12 plus others) (throughout specification)

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359. The support for a frozen comestible of claim 349, further comprising a bite size material comprising two ingredient materials placed outside or attached to said support... [fun ingredient 100] Nestle Bites (tm) [Kit Kat]} [0168] placed outside [0172] attached to [0394] said support.

360. (New): A support for a frozen comestible comprising an edible composite material. [original claims 6, 19] "composite support 62, composite support 62A, support 68, as filed throughout the specification][0044] [0045][0082] [0161] [0187] [0188] [0192] and others.

361. The support for a frozen comestible of claim 361, further comprising an edible homogenous material in said support. "attached or embedded" [0394] Nestle Bites can be embedded in a support with a homogenous material, such as embedding a Nestle Bites in a Charleston Chew [0302]

362. The support for a frozen comestible of claim 361, further comprising an edible homogenous material in said support. See 361.

363. The support for a frozen comestible of claim 360 wherein said edible composite material comprises said support. Original claims 6, 19, [0165] [0166] [0167][0168] Figs. 27B-27E

364. The support for a frozen comestible of claim 363 wherein said support comprises a multi-ingredient confection bar comprising two ingredient materials. Abstract, [0165]

365. The support for a frozen comestible of claim 364, further comprising a plurality of ingredients in said support comprising a candy, mini colored chips, flavored chips, mini size pieces of candy, ... a filling, gelatin, fruit, a binder, an edible bite sized composite material, a composite material coating, or combinations thereof. [0166] [0167][0168] composite material coating: "More than one kind of barrier 86 may be layered to add more flavor." [0176]

367. A support for a frozen comestible comprising a material comprising two edible ingredient materials, and *means for making* said support. See Original claims, abstract, drawings,

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specification.

368. A support for a frozen comestible comprising a material comprising two edible ingredient materials, and means for making said support.

369. (New): A method of making a support for a frozen comestible comprising comprising a material comprising two ingredient materials in a support for a frozen comestible. [0217] [0397]

374. The method of making a support for a frozen comestible of claim 372 wherein said comprising two ingredient materials comprises mixing said two ingredient materials. [0179] Snickers [0166] Baby Ruth [0166]

375. The method of making a support for a frozen comestible of claim 372 wherein said comprising two ingredient materials comprises layering said two ingredient materials. Milky Way [0166] Twix [0299] [0388] Kit Kat [0390]

376. The method of making a support for a frozen comestible of claim 372 wherein said comprising two ingredient materials comprises placing said two ingredient materials concentrically. [0176] Fig. 31, [0192] hollow licorice with candy beads in center [0217]

378. The method of making a support for a frozen comestible of claim 374 further comprising freezing said support and said frozen comestible. [0168] [0224][0252][0281] [0363] [0364]

379. The method of making a support for a frozen comestible of claim 377 wherein said freezing said support and said frozen comestible comprises manufacturing a supported frozen comestible in a combined disposable mold and packaging apparatus. Abstract, [0114] FIG. 24 is a perspective view of a combination protective packaging and disposable mold apparatus, according to my invention. [0274] - [0283]

380. A method of making a support for a frozen comestible comprising comprising an edible